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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

IN THE MATTER OF
FEDERAL-STATE JOINT BOARD
ON UNIVERSAL SERVICE

* CC DOCKET NO. 96-45
* DA NO. 98-872

PROPOSED REVISION OF
MAXIMUM COLLECTION
AMOUNTS FOR SCHOOLS
AND LIBRARIES AND
RURAL HEALTH CARE
PROVIDERS.

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INITIAL COMMENTS OF THE
MARYLAND PUBLIC SERVICE COMMISSION

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I. INTRODUCTION

On May 13, 1998, the Common Carrier Bureau ("CCB") of the Federal Communications Commission ("FCC" or "Commission") issued a Public Notice seeking comment on adjusting the maximum amount that may be collected and spent during this initial year of the schools and libraries program. Specifically, the Commission seeks comment on its proposal to implement a gradual phase-in of the schools, libraries and rural health care universal service support mechanisms that takes advantage and reflects the timing of access charge reductions, will provide substantial support and at the same time will minimize disruptions to consumers. In response to this Public Notice, the Maryland Public Service Commission ("MDPSC") submits the following initial comments.

II. BACKGROUND

On May 8, 1997, the FCC released an order which, among other things, established the federal universal support mechanisms for schools, libraries and health care providers.¹ In this Order, the Commission instituted caps on both support mechanisms - \$2.25 billion for the schools and libraries support mechanisms.² and \$400 million for the rural health care support mechanism.³

In addition, the Commission specified that the universal service administrator should collect \$100 million per month for the first three months

¹ Federal-State Joint Board on Universal Services, CC Docket 96-45, Report and Order, 12 FCC Rcd. 8776, 9002-161, paras. 424-749 (1997) (Universal Service Order).

² Universal Service Order, 12 FCC Rcd. at 9054, para. 529.

³ Id., 12 FCC Rcd. at 9141, para. 705

of 1998 for the schools and libraries support mechanism.⁴ and held that, between January 1, 1998 and June 30, 1998, the administrator "will only collect as much as required by demand, but in no case more than \$1 billion."⁵ On December 16, 1997, the Commission adopted the Third Reconsideration Order, which revised collection amounts, directed the administrator to collect and spent no more than \$625 million for the first six months of 1997 to support the schools and libraries universal service support mechanism.⁶

In its Public Notice, the Commission states that it remains committed to providing support to eligible schools and libraries for telecommunications services, Internet access and internal connections. The FCC also states that it remains committed to providing the greatest level of support to the most economically disadvantaged schools and libraries. However, the Commission goes on to state that it seeks to provide support in a manner that does not require consumers' rates to rise and without causing rate churn.

III ARGUMENT

THE FCC SHOULD FUND ONLY DISCOUNTS FOR TELECOMMUNICATIONS SERVICES FIRST.

To implement Section 254(h) of the Telecommunications Act of 1996 ("1996 Act"), the Joint Board recommended that the FCC adopt policies

⁴ Id., 12 FCC Rcd. at 9056, para. 532.

⁵ Id., 12 FCC Rcd. at 9054, para. 529.

⁶ Federal-State Joint Board on Universal Service, CC Docket 96-45, Third Order on Reconsideration, 12 FCC Rcd 28801 (1997) (Third Reconsideration Order).

providing that "all eligible schools and libraries may receive discounts of between 20 and 90 percent on all telecommunications services, Internet access and internal connections, subject to a \$2.25 billion dollar annual cap".⁷ In its Universal Service Order, the Commission determined that schools and libraries should receive rate discounts for basic "conduit" access to the Internet, as well as installation and maintenance of internal connections.⁸

The FCC reached this conclusion despite the fact that a broad range of diverse commentators objected to the inclusion of internal connections and Internet access within the scope of universal service funding. Many parties expressed concern that the amount of subsidy needed would balloon following this conclusion.⁹ For example, the Chairman of the Delaware Public Service Commission stated:

[S]chools in other states which have not made previous efforts to wire their classrooms - will, most likely, quickly exhaust the first \$2 billion of the fund with their high invoices reflecting the greater expenditures for inside wiring coupled with on-going telecommunications services.¹⁰

It appears that these parties concerns have come to pass. The inclusion of non-telecommunications services in the schools and libraries discount program has dramatically increased the amount of resources needed. According to the Schools and Libraries Corporation's own

⁷ In the Matter of Federal-State Joint Board on Universal Service, Recommended Decision, at para. 440.

⁸ Universal Service Order, at paras. 435; 439-444; 450-453; 460.

⁹ See, e.g. Reply comments of the Personal Communications Industry Association, at pg. 16.

¹⁰ Comments of the Chairman of the Delaware PSC, at pg. 6-7.

estimates, the vast majority of requests for discounts are for non-telecommunications services and facilities.¹¹

The MDPSC agrees that the funding for the schools and libraries programs should be limited to an amount that does not cause long distance rates to increase. However, the MDPSC strenuously objects to the development of arbitrary rules of priority as a method of limiting disbursements from the fund. The better alternative is to suspend any funding for Internet access and internal connections.¹² According to Commissioner Furchtgott-Roth, the amount already collected this year would almost fully fund the demand for telecommunications services.¹³

Suspending payment for Internet access and internal connections would permit every school and library which applied to the program to receive some benefit without increasing long distance rates. Rules of priority, on the other hand, create the very real specter of a number of schools and libraries being left with no funding, while those schools and libraries who rank high on the priority list will receive full funding for their proposals.

¹¹ FCC Report to Congress, Appendix D, May 8, 1998. According to the Corporation, total demand for telecommunications services is \$655,688,020 demand for Internet services is \$88,208,299, and demand for internal connections is \$1,275,399,870.

¹² The MDPSC notes that the FCC's decision to fund discounts for Internet Access and internal connections currently is on appeal. Texas Public Utility Commission v. FCC, (Fifth Circuit). The MDPSC's comments should not be construed as taking a position on this issue.

¹³ Public Notice DA98-872, Statement of Commissioner Harold Furchtgott-Roth at page 4 (May 13, 1998).

IV CONCLUSION

For the foregoing reasons, the MDPSC respectfully recommends that the FCC suspend any funding of Internet access and internal connections by the schools and libraries program.

Respectfully submitted,

A handwritten signature in cursive script, reading "Bryan G. Moorhouse".

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